

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 3:22-cr-131

Civil Case No. 3:24-cv-338

- vs -

District Judge Thomas M. Rose

Magistrate Judge Michael R. Merz

D'LAQUAN CANTRELL,

Defendant.

:

DECISION AND ORDER

This is an action pursuant to 28 U.S.C. § 2255 to obtain relief from this Court's final judgment. In his *pro se* § 2255 Motion, Defendant pleads one ground for relief: ineffective assistance of trial counsel (Motion to Vacate, ECF No. 66). After the Magistrate Judge ordered the United States to answer (ECF No. 68) but before it has done so, Defendant filed a Motion to Amend his Motion to Vacate (ECF No. 71).

Under Fed.R.Civ.P. 15, a party may amend a pleading once without court permission before the opposing party has responded to the pleading. The Court treats motions to vacate under 28 U.S.C. § 2255 as initial pleadings subject to Fed.R.Civ.P. 15. Therefore Defendant does not need court permission to amend and the Motion to Amend (ECF No. 71) is moot. The United States shall respond to both the original and amended motions to vacate by the date now set, May 2, 2025.

IT IS SO ORDERED.

April 14, 2025.

s/ Michael R. Merz
United States Magistrate Judge